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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,811	05/28/2004	John S. Austin	BUR920040136US1	3810

30449 7590 01/24/2006  
SCHMEISER, OLSEN + WATTS  
3 LEAR JET LANE  
SUITE 201  
LATHAM, NY 12110

EXAMINER

CHANG, JOSEPH

ART UNIT PAPER NUMBER

2817

DATE MAILED: 01/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/709,811		AUSTIN ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Joseph Chang		2817	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 November 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7,9-12,14,15 and 17-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5 and 7 is/are allowed.
- 6) ☒ Claim(s) 6, 9-12, 14, 15, 17-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |



## **DETAILED ACTION**

### ***Claim Rejections***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 9-12, 14, 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Schorn, US Patent No. 6278334

Schorn discloses in Figures 1-4 an oscillator (Fig 1) and a method comprising: first (Vdd) and second (Ground) operating voltages, delay stages (4, 6, 8, 10 and 12), and inverting circuit (44), input node (IN), output node (OUT), a control circuit including a first switch circuit (upper transistor of 46) and a first resistance adjusting circuit (lower transistor of 46). It is noted that every element and connection are the same as the one in this application and therefore any functional limitations recited in the claims are inherently present.

Claims 6, 15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schorn in view of Abe et al.

Regarding claim 15, as discussed above, Schorn discloses an oscillator as recited in the claims except an extrinsic capacitor coupled between the output node and ground. As would have been well known in the art, capacitors or capacitive elements between the output node and ground are present whether intrinsically or extrinsically because the capacitance is a determination factor for the delay, for example, Abe et al. shows capacitor CL in Figure 5. Further, extrinsic capacitors are beneficial to an adjustment of amount of delays. Therefore, it would have been obvious to one of



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ordinary skill in the art to place an extrinsic capacitor between the output node and ground because such a modification would have been beneficial to an adjustment of amount of delays.

Regarding claims 6 and 17, Although Schorn does not explicitly disclose that the inverter 44 is CMOS, one of ordinary skill in the art would have recognized that the inverter 44 is of CMOS because CMOS inverters are well known in the art, as an example, Figures 1-3 shows CMOS inverters.

#### ***Allowable Subject Matter***

Claims 1-5, 7 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: the best prior art of record, Schorn, taken alone or in combination of other references, does not teach or fairly suggest "the second resistance adjusting circuit comprises a first n-channel transistor"

#### **Response to Arguments**

Applicant's arguments with respect to claims 1-7, 9-12, 14, 15, 17-20 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).




A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Chang whose telephone number is 571 272-1759. The examiner can normally be reached on Mon-Fri 0700-1730.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pascal can be reached on (571) 272-1769. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
JOSEPH CHANG  
PRIMARY EXAMINER